MT LEGISLATIVE HISTORY

Chapter 652 1989

Bill H _____ (S) 377 Original bill & hist. ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	Mar 09	✓ C	Hearing Date(s)	Feb 13	✓ C
	_____	___ C		Feb 16 5	✓ C
	_____	___ C		_____	___ C
	_____	___ C		_____	___ C
Date Out	Mar 09	✓ C		Feb 16	✓ C

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

Free Conference Committee

Apr 19 ✓ C

SENATE BILL NO. 377

INTRODUCED BY GAGE, STRIZICH, HALLIGAN

IN THE SENATE

FEBRUARY 8, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 16, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 17, 1989	PRINTING REPORT.
FEBRUARY 18, 1989	SECOND READING, DO PASS.
FEBRUARY 20, 1989	ENGROSSING REPORT.
FEBRUARY 21, 1989	THIRD READING, PASSED. AYES, 50; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 21, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 10, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 14, 1989	SECOND READING, CONCURRED IN.
MARCH 16, 1989	THIRD READING, CONCURRED IN. AYES, 95; NOES, 1.
	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 4, 1989	RECEIVED FROM HOUSE.

	SECOND READING, AMENDMENTS NOT CONCURRED IN.
APRIL 5, 1989	ON MOTION, FREE CONFERENCE COMMITTEE REQUESTED AND APPOINTED.
	IN THE HOUSE
APRIL 6, 1989	ON MOTION, FREE CONFERENCE COMMITTEE REQUESTED AND APPOINTED.
	IN THE SENATE
APRIL 18, 1989	ON MOTION, FREE CONFERENCE COMMITTEE DISSOLVED.
APRIL 19, 1989	ON MOTION, NEW FREE CONFERENCE COMMITTEE REQUESTED AND APPOINTED.
	IN THE HOUSE
APRIL 20, 1989	ON MOTION, FREE CONFERENCE COMMITTEE DISSOLVED.
	ON MOTION, NEW FREE CONFERENCE COMMITTEE REQUESTED AND APPOINTED.
	IN THE SENATE
APRIL 21, 1989	FREE CONFERENCE COMMITTEE REPORTED.
	SECOND READING, FREE CONFERENCE COMMITTEE REPORT ADOPTED.
	THIRD READING, FREE CONFERENCE COMMITTEE REPORT ADOPTED.
	IN THE HOUSE
APRIL 21, 1989	FREE CONFERENCE COMMITTEE REPORT ADOPTED.
	IN THE SENATE
APRIL 21, 1989	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

BILL NO. 377

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING AND CLARIFYING THOSE ITEMS SUBJECT TO FORFEITURE BECAUSE OF THEIR CONNECTION TO DANGEROUS DRUG OFFENSES; REMOVING THE MARIJUANA LIMITATION; AND AMENDING SECTION 44-12-102, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 44-12-102, MCA, is amended to read:

"**44-12-102. Things subject to forfeiture.** (1) The following are subject to forfeiture:

(a) all controlled substances that have been manufactured, distributed, prepared, cultivated, compounded, processed, or possessed in violation of Title 45, chapter 9;

(b) all money, raw materials, products, and equipment of any kind that are used or intended for use in manufacturing, preparing, cultivating, compounding, processing, delivering, importing, or exporting any controlled substance in violation of Title 45, chapter 9~~, except items used or intended for use in connection with quantities of marijuana in amounts less than 250 grams~~;

(c) ~~except as provided in subsection (2)(d),~~ all property that is used or intended for use as a container for anything enumerated in subsection (1)(a) or (1)(b);

(d) except as provided in subsection (2), all conveyances, including aircraft, vehicles, and vessels~~:~~

~~(i)~~ ~~which~~, that are used or intended for use in ~~unlawfully transporting or in~~ any manner ~~facilitating~~ to facilitate the ~~transportation of anything enumerated in subsection (1)(a) or (1)(b) for the purpose of sale or receipt of such thing~~;

~~(ii) in which a controlled substance is unlawfully kept, deposited, or concealed; or~~

~~(iii) in which a controlled substance is unlawfully possessed by an occupant~~ commission of a violation of Title 45, chapter 9;

(e) all books, records, and research products and materials, including formulas, microfilm, tapes, and data, that are used or intended for use in violation of Title 45, chapter 9;

(f) all drug paraphernalia as defined in 45-10-101;

(g) everything of value furnished or intended to be furnished in exchange for a controlled substance in violation of Title 45, chapter 9; all proceeds traceable to such an exchange; and all money, negotiable instruments, and securities used or intended to be used to facilitate a violation of Title 45, chapter 9; ~~and~~

(h) any ~~real or~~ personal property constituting or derived from proceeds obtained directly or indirectly from a

INTRODUCED BILL
SB 377

~~sale-of-a-controlled-substance-in~~ violation of Title 45, chapter 9~~.~~, that is punishable by more than 5 years in prison; and

(i) all real property, including any right, title, and interest in the whole of any lot or tract of land and any appurtenances or improvements, that is used or intended to be used in any manner or part to commit or facilitate the commission of or that is derived from or maintained by the proceeds resulting from a violation of Title 45, chapter 9, that is punishable by more than 5 years in prison. An owner's interest in real property is not subject to forfeit by reason of any act or omission the owner proves to have been committed or omitted without his knowledge or consent.

(2) (a) ~~No~~ A conveyance used by a person as a common carrier in the transaction of business as a common carrier is not subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of Title 45, chapter 9.

(b) ~~No~~ A conveyance is not subject to forfeiture under this section because of any act or omission established by the owner of the conveyance to have been committed or omitted without his knowledge or consent.

(c) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the

secured party if he neither had knowledge of nor consented to any violation of Title 45, chapter 9.

~~(d)--No---conveyance---or---container---is--subject--to forfeiture-under-this-section-if-it-was-used-or-intended-for use-in-transporting-less-than-250-grams-of-marijuana.~~"

-End-

Senator Crippen asked if there should be a definition of the property and Mr. Connors said he would look into it.

Closing by Sponsor: Senator Noble closed the hearing.

HEARING ON SENATE BILL 377

Presentation and Opening Statement by Sponsor: Senator Del Gage of Cut Bank, District 5, opened the hearing saying the bill revised and clarified the items subject to forfeiture connected to drug dealing, and also removed the 250 gram marijuana exemption exception that was in the law previously. It brings the state, as far as forfeiture is concerned, into a zero tolerance situation as the federal government has done. He said John Connor would explain the bill.

List of Testifying Proponents and What Group they Represent:

John Connor, Montana County Attorneys' Association
Ed Hall, Staff Attorney for Crime Control
Chuck O'Reilly, Montana Peace Officers Association

List of Testifying Opponents and What Group They Represent:

Robert Scott, A.C.L.U.

Testimony:

John Conners appeared in favor of the bill. He said the bill was one of three drug-related bills of importance to the Montana County Attorneys' Association. This bill will provide the most useful tool in the efforts against dangerous drugs. He said there are four reasons for requesting this legislation. Under the anti-drug abuse act of 1988, there is an amendment proposed to Section 21. Its effect is that, when the federal government seizes property that the state is involved with also under the adoptive seizures provision, the state no longer gets any share of that property after forfeiture occurs, if the state statute is not as broad as the federal law. For example, he said the federal law provides for seizure of real property if it's used in any way to violate a federal drug law. Montana statute now only provides for seizure of real property if its proceeds are obtained directly or indirectly from a violation or sale of an

illegal substance. This bill proposes to bring the real property into line with federal law. The advantage of doing that is that their forfeiture laws, administratively, are a lot more streamlined than ours. They can forfeit things much quicker and with less bureaucratic red tape than we can do on the state level, he stated. (Exhibit A-1)

Another reason for the bill is that Montana has to provide 27% matching funds for the drug abuse act. The state receives $800,000 for 1989-90, he stated. The match goes up to 50% in the next fiscal year and, thereafter, the state is required to totally fund the programs they have in relation to that act, he told the committee. There are 8 task forces presently operating for which funding is needed, he said.

In areas where there is no grant money available, forfeitures make is possible to fund local drug enforcement operations, said Mr. Connor.

Finally, he stated, the bill will allow law enforcement to remove the profit from the sale of drugs. He then reviewed the bill for the committee. He spoke to the 250 gram exemption being removed and to "conveyances" used in the commission being forfeited. He addressed real property and personal property forfeiture provisions, criminal sale, criminal advertisement and criminal manufacture of imitation dangerous drugs. It would not apply to simple possession of dangerous drugs or first offense, he said. Section I is taken directly from federal law with the exception of "derived" or "maintained", he told the committee.

Mr. Connor said the problem of dangerous drugs was far reaching and needed to be dealt with. He thought removing the profit motive would be a way of dealing with the problem.

Ed Hall said a 12 person committee had been formed late in 1988 to formulate Montana'a anti-drug strategy to provide funds as mentioned by John Connor. The committee has representatives from police agencies, the prison, the Office of Public Instruction, the Drug Enforcement Administration, the U. S. Attorney's Office, the Treatment Service Division of the Department of Institutions, the Law Enforcement Services Division in the Department of Justice and some legislators. At a recent meeting, he said, the

committee unanimously supported the bill. He said it will be an important tool to the state, as it is to federal enforcement. One team in Flathead has enough money from forfeitures to fund their program.

Chuck O'Reilly supported the bill. He said that many departments have zero funds and are funded totally from forfeitures. He urged support of the bill.

Robert Scott said the A.C.L.U. did not oppose the bill in general, but opposed one portion of it. He said the bill seemed to be directed primarily to people trafficking in drugs and seeking to use the money derived from the forfeitures for funding their anti-drug programs. He said he would like to oppose the provision dealing with 250 grams of marijuana. And, he said, he opposed the provision relating to vehicles included misdemeanor possession of marijuana which is a $500 fine. If a vehicle was being used by a non-owner and is forfeited, the owner would have to prove that he had no knowledge of the illegal use. He thought that was an excessive punishment and urged the committee to study that.

Questions From Committee Members: Senator Mazurek asked about p.3, (i), saying he had some concern about "the innocent spouse." There may be a spouse with knowledge of drug sale, but has no ability to stop it. He felt there was no protection for her. John Connor felt that would be a rare situation but, even if it were to occur, discretion is allowed the prosecutor. If the facts were to show the "innocent" spouse was innocent, he thought a prosecutor would not take her home away from her. The bill was mainly to conform to federal statutes. There is a provision for an innocent owner's interest, he said, in the bill. He wouldn't object to some amendment if the committee felt necessary. He also said the bill was not more stringent than present law allows for regarding to marijuana possession.

Senator Beck asked about the marijuana exemption. Mr. Connor said the problem was brought to his attention by law enforcement officer on the highline. People were using their cars to deal drugs to high school kids. He said, because there might be only a small amount of marijuana in a car at any one time, forfeiture was not an option. But if the possession was added up over a period of time, it would be enough for forfeiture. And that, he said was the reason to remove the limitation. He felt that there was little use in protecting someone who was setting out to break the law.

Senator Yellowtail asked Mr. Connor to expand on p.3, line 8. Mr. Connor said that a person might be growing marijuana on a farm in Cascade County and the proceeds are maintaining a ranch in Ravalli County. The bill would allow for the forfeiture of the Ravalli County Ranch, if it could be shown that the proceeds were being used to purchase or maintain it. Drug money is being made and, essentially, laundered.

Senator Yellowtail asked why the federal law did not contain the same language. Mr. Connor didn't know.

Closing by Sponsor: Senator Gage said we should not jeopardize the broadness of the bill and forfeit federal participation because of it. He specifically wanted to prohibit farm and ranch operations from being illegal drug operations. He urged passage of the bill.

At this point, Chairman Crippen had to present the next bill in the hearing. V. Chairman Bishop took the chair.

HEARING ON SENATE BILL 363

Presentation and Opening Statement by Sponsor: Senator Bruce Crippen of Billings, District 45, opened the hearing stating that the purpose of the bill was to allow parties to a contract for the acquisition of real or personal property, services, or money or credit to agree to submit any future contractual disputes to arbitration, regardless of the dollar amount of the contract; deleting the dollar amount limitation for contracts that may contain such arbitration agreements. The act removes the limit of $35,000 for future contractural disputes for arbitration. In 1985, Montana adopted the arbitration act with a $35,000 limit on certain actions involving money. Since then, it has been discovered that there are many cases before the district court having this amount of money or less.

List of Testifying Proponents and What Group they Represent:

Judge Charles Sande of Billings, himself
Lew Penwell of Billings, himself

ROLL CALL

JUDICIARY COMMITTEE

51st LEGISLATIVE SESSION -- 1989 Date 2-13-89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN	✓		
SENATOR HARP	✓		
SENATOR JENKINS			✓
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.

EXHIBIT NO. 11 , P.1
DATE 2-13-89
BILL NO. SB 377

SENATE BILL 377

Testimony of John Connor, Department of Justice
On Behalf of Montana County Attorneys Association

Senate Bill 377 was requested by the Montana County Attorneys Association to provide additional assistance in the law enforcement effort against dangerous drug offenders.

There are four basic reasons for the changes proposed by Senate Bill 377. The first is that under the Anti Drug Abuse Act of 1988, section 21 U.S.C. 881 is amended to disallow equitable distribution of forfeiture assets back to local or state law enforcement authorities when the property is seized by the federal government unless the state has a corresponding forfeiture provision which also would allow state forfeiture of the subject property. The rationale for this position is that the federal law can't be used to subvert state statutes; if the state statute is not broad enough to cover the contemplated forfeiture, then the federal government can seize, but the state or local agency assisting can't share in the proceeds. The amendments as proposed would bring state law in line with federal law in this regard.

The second reason is that the money received by the state under the Anti Drug Abuse Act of 1988 requires a state match, which for the current fiscal year is 27% of approximately $800,000. The match requirement for the following fiscal year is 50% and the state is required to fund any operations entirely thereafter.

There are currently eight task force programs operating in the state with these funds. By strengthening our forfeiture statutes, we will be able to realize more money from the offender which can be

SENATE JUDICIARY
EXHIBIT NO. A-1, p.2
DATE 2-28-89
BILL NO. SB 377

used to meet some of these match requirements and be utilized to provide funding when federal funds are no longer available. Another reason for the bill is to provide a source of money for funding those enforcement and education efforts which do not currently receive Anti Drug Abuse Act grant funds. Instead, these efforts rely primarily on local general fund expenditures.

Finally the proposed amendments will allow law enforcement a greater opportunity to extract the profit from drug operations, making those who are in it for the money pay for the resources of those who are committed to stopping their illegal activities.

This bill proposes four principal changes in the existing statute which defines the things that are subject to forfeiture. It is important to remember though, that all of the innocent owner protections and all of the procedural aspects of the forfeiture statutes remain unchanged by this bill.

The first change relates to the marijuana limitation. Section 44-12-102 exempts from forfeiture items used in connection with or the conveyance of marijuana in amounts of less than 250 grams. The bill proposes to remove this limitation entirely.

The bill also amends the conveyance language to simply allow forfeiture of a conveyance if it is used in any manner to facilitate the commission of Title 45, Chapter 9. This is not a major substantive change from present language but it does simplify it.

Additionally, the bill amends the personal property provisions of subsection (h) to expand the language to include not only sale but <u>any</u> violation of Title 45, Chapter 9 punishable by more than

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EXHIBIT NO. A-1 p.3
DATE 2-28-89
BILL NO. SB 377

five years imprisonment. Besides sale of dangerous drugs, this amendment would also cover possession of dangerous drugs with intent to sell, second conviction of fraudulently obtaining dangerous drugs, criminal possession of precursors to dangerous drugs, criminal sale of imitation dangerous drugs to a minor, criminal advertizement of imitation dangerous drugs and criminal manufacture of imitation dangerous drugs. In other words this amendment would extend application of the statute to those situations in which the offender was involved in the crime primarily for money. It would not cover possession of any dangerous drug, first offense of fraudulently obtaining dangerous drugs or criminal possession of imitation dangerous drugs with intent to sell.

The bill also creates a real property forfeiture provision that is consistent with its federal counterpart. Pursuant to this amendment, real property can be forfeited if it is being used to commit or facilitate commission of or maintained by or derived from proceeds of a violation of Title 45, Chapter 9 punishable by more than five years. It also includes the innocent owner exception of Title 21, section 881, United States Code.

Having worked as a drug prosecutor for the past year and a half I have seen the scope of the problem in Montana. I believe it is getting worse and the profits going to the offender are on the increase. I have yet to voir dire a prospective jury panel where there was not at least one person adversely touched by a drug related problem of some sort. Drug dealers are simply in it for the money; they are capitalists of the first order. Money is

SENATE JUDICIARY
EXHIBIT NO. A-1, p.4
DATE 2-28-89
BILL NO. SB 377

the dealer's incentive and we need to take the incentive away from him. The provisions of Senate Bill 377 will greatly aid us in doing that.

DATE 2/13/89

COMMITTEE ON Judiciary

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Mark O'Reilly	Mt. Sheriffs & Peace Officers	353	X	
Richard P. Bretman Jr	MT Sheriff & Peace Officers	353	X	
Bill Fleiner	MT Sheriff & Peace Officers	353	X	
Clint Stocks	MT. Sheriff & Peace Officers	353	X	
John Connor	Mt. County Attys Assn	353	X	
John Connor	Mt. County Attys Assn	367	X	
John Connor	Mt. County Atty Assn	377	X	
[illegible]	Drug Strategy Committee	577	X	
Peter Funk	Dept. of Justice	353	X	
Steve Turkiewicz	Mt Auto Dealers Assn	353		X
R Scott	ACLU	377		X
Rick Later	Mt. Sheriffs & Peace officers	353	X	
T. Gregory Hintz	MT Sheriffs & Peace officers	353	X	
Mark O'Reilly	" " " "	277	X	
Patty Currell	Self	353	✓	

(Please leave prepared statement with Secretary)

exception crippled the legislation.

Rep. Addy stated Mr. Ranstrom seems to be saying it is just common sense the judge won't do what we say, he'll do what we mean. Rep. Addy asked him why we just don't say what we mean. Mr. Ranstrom responded he did not see any reason Montana should take a different path than the federal government in this regard.

Rep. Eudaily asked if this were put in the law would they have the obligation to do the forfeiture. Mr. Ranstrom responded no--prosecutorial discretion allows a judgment call.

Rep. Eudaily asked if everything in subsection (i) were federal law. Mr. Connor responded this is the federal law except for the penalty provisions which he tailored to Montana law.

Rep. Eudaily then asked about the stricken language on lines 11 and 12. Mr. Connor stated that was language they put in to address Rep. Mercer's concern about the derivation problem.

Closing by Sponsor: Sen. Gage also had a concern with the burden of proof but he stated he has a lot of faith in the judges and jury system of our state. He feels they are fair and they consider these things.

DISPOSITION OF SENATE BILL 377

Motion: Rep. Hannah moved SB 377 BE CONCURRED IN, motion seconded by Rep. Stickney.

Discussion: Rep. Mercer stated he felt the concern was legitimate with respect to the owner proves.

Amendment: Rep. Mercer moved to amended as follows:

Page 3, lines 15 and 16.
Strike: "the owner proves to have been"
Following: "omitted" on line 16
Insert: "the owner"
Before: "knowledge"
Insert: "actual"
Before: "consent"
Insert: "express"

The sentence would then read, an owner's interest in real property is not subject to forfeit by reason of any act or omission committed or omitted by the owner without his

EXECUTIVE ACTION ON SENATE BILL 377

Discussion: Senator Mazurek stated he wanted protection for the innocent spouse. He said that the AG's office would prefer not to have that in there but wanted discretion by the prosecutors.

John Connor, representing AG, stated they don't have any problems with protecting an innocent spouse, but it would be creating an exception for a criminal. It would create a flag that the defender could use to protect himself.

Senator Mazurek surrendered!

Amendments and Votes: Senator Yellowtail MOVED his amendments. (See Exhibit 10). The motion CARRIED with Senators Pinsoneault and Crippen voting NO.

Recommendation and Vote: Senator Brown moved that SB 377 DO PASS AS AMENDED. The MOTION CARRIED UNANIMOUSLY.

DISPOSITION OF SENATE BILL 291

Recommendation and Vote: Senator Harp MOVED that Senate Bill 291 BE TABLED. The MOTION CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment At:

SENATOR BRUCE D. CRIPPEN, Chairman

BC/rj

min215.sr

ROLL CALL

JUDICIARY COMMITTEE

51st LEGISLATIVE SESSION -- 1989 Date 2-15-89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN	✓		
SENATOR HARP	✓		
SENATOR JENKINS			✓
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 2-15-89 Senate Bill No. 377 Time

NAME	YES	NO
SEN. BISHOP	✓	
SEN. BECK	✓	
SEN. BROWN	✓	
SEN. HALLIGAN	✓	
SEN. HARP	✓	BM
SEN. JENKINS		✓
SEN. MAZUREK	✓	
SEN PINSONEAULT		✓
SEN.YELLOWTAIL	✓	
SEN. CRIPPEN		✓
	7	3

Rosemary Jacoby
Secretary

Sen. Bruce Crippen
Chairman

Motion: Senator Yellowtail's amend passes 7-3

SF-3 (Rev. 1987)

SENATE STANDING COMMITTEE REPORT

February 16, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration SB 377 (first reading copy -- white), respectfully report that SB 377 be amended and as so amended do pass:

1. Page 1, line 22.
Following: "~~grams~~"
Insert: ", except items used or intended for use in connection with quantities of marijuana in amounts less than 60 grams"

2. Page 1, line 23.
Following: "~~(2)(d);~~"
Insert: "except as provided in subsection (2)(d),"

3. Page 3, lines 8 and 9.
Following: "of" on line 8
Strike: remainder of line 8 through "from" on line 9

4. Page 4.
Following: line 5
Insert: "(d) No conveyance or container is subject to forfeiture under this section if it was used or intended for use in transporting less than 60 grams of marijuana."

AND AS AMENDED DO PASS

Signed: _____
Bruce D. Crippen, Chairman

SCRSB377.216

DISPOSITION OF SENATE BILL 417

Motion: Representative Nelson moved SB 417 BE CONCURRED IN, motion seconded by Rep. Wyatt.

Discussion: Rep. Brooke indicated she had a problem with the punishment and asked how that compared to an assault charge on a human. Rep. Addy responded if it is a simple assault where no grievous bodily harm is inflicted or threatened, $500 or six months. If it is grievous bodily harm or aggravated assault, a fine of up to $50,000 and imprisonment up to 20 years.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: A vote was taken on the motion SB 417 BE CONCURRED IN and CARRIED unanimously.

HEARING ON SENATE BILL 377

Presentation and Opening Statement by Sponsor: Sen. Del Gage, Senate District 5, stated SB 377 is another bill which attempts to put more teeth into our illegal drug laws in the state of Montana. SB 377 deals with forfeiture of property and what property is subject to forfeiture. SB 377 allows for more forfeitures to generate more funds in our state from the seizure of various types of assets which then go back into the drug enforcement field in our state to alleviate some of the funding we are now lacking from the federal government. The Senate had brought this down to a zero tolerance as far as illegal drugs are concerned, which the federal government has done. It was amended on the Senate floor so 60 grams of marijuana are allowed before any forfeiture occurs. Previously the statute had 250 grams. Sen. Gage indicated they would not be unhappy if the House brought that back to zero tolerance.

Testifying Proponents and Who They Represent:

John Connor, County Prosecutor Services Bureau, Dept. of Justice
Donald Ranstrom, Blaine County Attorney and President of the Montana County Attorneys Association
Ed Hall, Montana Board of Crime Control
Mark Stolin, Havre Police Officer

Proponent Testimony:

John Connor, County Prosecutor Services Bureau of the Montana Department of Justice, appeared in support of SB 377 on behalf of both the Department of Justice and the Montana County Attorneys Association. They looked at the zero tolerance to address a problem brought to their attention in several areas of the state, most notably along the Highline, where young people (19, 20, 21 years old) were dealing small amounts of drugs from their cars in the area of their schools and were never in the possession of 250 grams at any one time, so there was nothing that could be done to shut down their vehicle, i.e., their base of operation. That is why this bill was designed as it was. He believed the justification for pushing it up to 60 grams was because 60 grams was the felony amount. They would prefer it be zero.

Donald A. Ranstrom, Blaine County Attorney and President of the Montana County Attorneys Association, submitted written testimony in support of SB 377 (Exhibit 1). He went on to state this bill asks the state to adopt exactly the same language as what is currently in 21 U.S.C. sec. 881 to do exactly what the federal government can do. This provides the funding for the drug enforcement plans the federal government is advocating. Under the current situation, this year Montana must provide 27% of the matching funds to receive its grants from the federal government, next year 50%, and the year thereafter Montana will no longer receive federal funding. By adopting this measure, we will be able to internally fund our own operations through the sale of these forfeited assets. Mr. Ranstrom is hopeful this bill will make the risk of losing their property as great as the benefit, thereby making the choice to be involved with illegal drugs harder.

Ed Hall, Montana Board of Crime Control staff, representing the Statewide Anti-drug Strategy Committee, appeared in support of SB 377. This committee believes the removal of assets from drug traffickers is a key tool for law enforcement and is an important anti-drug tool. The committee unanimously supports this bill. They feel the fear of going to prison is not enough to discourage drug dealing.

Mark Stolin, Havre police officer, spoke in support of SB 377. Mr. Stolin relayed his Chief Mike Shortell's support of the bill as Mr. Shortell was unable to attend the hearing. Mr. Stolin relayed to the committee some of his experiences working narcotics from the street level.

Testifying Opponents and Who They Represent:

Ray Brandewie, Montana Innkeepers Association
Tom Hopgood, Montana Association of Realtors

Opponent Testimony:

Ray Brandewie, representing the Montana Innkeepers Association, stated he fully supported the bill with the exception of three words in the bill on page 3, line 15, "the owner proves." He indicated this was putting the burden on an owner of property, in this case, a motel or hotel operator, to prove he did not know anything about the operation nor was he gaining anything from it. Mr. Brandewie indicated the burden of proof should be on the state.

Tom Hopgood, representing the Montana Association of Realtors, stated that although his association supports measures which curb drug problems, it opposes the same section Mr. Brandewie addressed. Although this is a civil penalty, it is in the nature of a criminal forfeiture and is the penalty opposed for the commission of a crime. Therefore, the association believes the burden of proof should be on the state like it is in every other criminal offense to prove the owner has specific knowledge or has consented to the commission of a crime. Mr. Hopgood submitted an amendment to remedy this problem (Exhibit 2).

Questions from the Committee: Rep. Gould asked Sen. Gage his opinion of the proposed amendments. Sen. Gage felt it would put a little more responsibility on the landlords to be a little more responsible about the people they are renting to and do more monitoring of their property. Rep. Daily asked Mr. Connor to address the amendments. Mr. Connor did not expect during the next biennium to see anywhere near the kind of forfeiture actions relative to properties Mr. Hopgood contemplates seeing. He did not feel we were looking at forfeiting a lot of real property. In addition, the language which is a concern is language taken directly from the federal law, 21 U.S.C. sec. 881. Forfeiture actions are not criminal actions--they are civil cases in rem rather than in personam, and, therefore, it is appropriate to put the burden of proof on the owner of the property. Not adopting the language the federal law uses will restrict our opportunities to take advantage of the federal adoptive forfeitures.

Rep. Eudaily asked Mr. Connor to address the statements made about real property that is derived from the sale of drugs when the bill states real property that is used or intended to be used in any manner or part to commit or facilitate the commission of a violation without mentioning how they purchased it. Mr. Connor indicated he was referring to subsection (h) of the current law that says any real or personal property constituting or derived from proceeds obtained directly or indirectly from the sale. This bill takes that real property language out of Section 44-12-102(h), MCA, and expands it to what we have here, which is the federal law. As he reads this act, what it says is you cannot forfeit it if you can prove only that it was derived from it. If the property is being used for a violation punishable by more than five years, then that property can be forfeited. Within Section 44-12-102, MCA, there are other provisions relating to instances that do not deal with real property. Rep. Mercer stated that (h) in the current law says the real property derived from the proceeds could be forfeited, i.e., if you sell out of your car and buy real estate, the real estate could be forfeited. In the bill, that is being deleted and (i) says the real property used or intended to be used indicates that if you pass this bill, the only real property you will be able to forfeit is real property used in part of the commission of the crime. Mr. Connor stated the bill in its original form had language relative to derivation but that was stricken in the Senate. However, as it was drafted originally, that would have been covered in (i) in its original form. It was their desire that you would be able to forfeit property purchased with drug money.

Rep. Mercer asked Sen. Gage why the Senate deleted the forfeiture of real property when a lot of the testimony today indicated someone can be profiting from drugs and buying themselves a large ranch or some such thing and under the current law that ranch could be taken away from them, but if this bill is passed in the form it is in now, we would not be able to. Sen. Gage indicated that part got tied up in the innocent spouse doctrine we have around and that entered into their determination that they were being too tough with regard to family situations. This would temper that a bit in that regard.

Rep. Aafedt asked Mr. Ranstrom if the property were confiscated, what the lienholder's position would be. Mr. Ranstrom stated the lienholder would have a right to be paid first unless it could be shown the lienholder was somehow involved in this gain. He felt building in an innocent owner

actual knowledge or express consent. Rep. Mercer felt this would eliminate any confusion about implied consent and the burden of proof would then be on the prosecutor.

The amendment was seconded by Rep. Brooke and CARRIED with all in favor.

Rep. Mercer felt the idea of real property purchased or derived from the proceeds should be reinserted. He felt something could be crafted to protect the family member that said, any real property or portion of real property or amount of equity in real property that is derived from the proceeds of illegal drug sales should be subject to forfeiture. Although he did not agree with the zero tolerance, Rep. Mercer also felt the 60 grams should be amended to 5 or 10 grams, something more like the average casual user is carrying around.

Rep. Mercer moved to further amend SB 377 as follows:

Page 3, line 7.
Strike: "all"
Insert: "that specific portion of"

Page 3, line 8.
Strike: "the whole of"

Page 3, line 9.
Following: "that is"
Insert: "directly"

Page 3, lines 11 and 12.
Reinsert: stricken language

The sentence would then read, that specific portion of the real property that was derived from or maintained by the proceeds from drug dealing could be forfeited as well as any portion of the property that is directly used to commit or facilitate the offense.

The amendment was seconded by Rep. Eudaily and CARRIED with Rep. Addy voting No.

Rep. Mercer stated that he did not feel any family deserved to be protected if part of their property was purchased from the proceeds of illegal drugs. Rep. Aafedt expressed concern as to how you could prove where or what portion of the money came from drug profits. Rep. Mercer responded the burden of proof would again be on the prosecutor.

Additionally, Rep. Mercer felt 60 grams was too high--maybe put it at 5 or 10 grams. Rep. McDonough explained that figure was used because 60 grams was the felony break-off, less than that would be a misdemeanor. She expressed concern in taking someone's car for a misdemeanor offense. Rep. Eudaily asked if this bill was aimed at the supplier, dealer, distributor, or user. He was concerned that lowering the amount too much would affect the user more than the supplier. Rep. Mercer indicated the bill was going after both users and possessors.

Recommendation and Vote: Rep. Mercer moved SB 377 DO PASS AS AMENDED, motion seconded by Rep. Eudaily. Motion was voted upon and CARRIED unanimously.

HEARING ON SENATE BILL 79

Presentation and Opening Statement by Sponsor: Sen. Joe Mazurek, Senate District 23, stated SB 79 was introduced at the request of the Montana Association of Realtors (not the Board of Realty Regulation). Prior to 1975, persons could not agree in advance to arbitrate future disputes. In 1985, Montana adopted the Uniform Arbitration Act which updated the procedures for conducting arbitration and authorized people to submit future disputes to arbitration. At the time that bill was adopted, the legislature imposed exceptions on that ability to arbitrate a future dispute, Section 27-5-114, MCA. This bill addresses those exceptions in a very narrow context. This bill would allow disputes between members of the association only to be arbitrated. This will not affect any dispute between the buyer and seller of a home. Sen. Mazurek suspects the most frequent circumstance under which the need for this may arise will be when a dispute arises as to how the proceeds of a commission ought to be split--it does not involve the buyer or seller, but rather the two real estate agencies or realtors under the matter. The bill provides they would be required first to submit the matter to arbitration if both realtors were members of their professional association. It could not be used if they were not both members of the trade or professional association.

Testifying Proponents and Who They Represent:

Tom Hopgood, Montana Association of Realtors

DAILY ROLL CALL

JUDICIARY COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date MARCH 9, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN	X		
REP. OLE AAFEDT	X		
REP. WILLIAM BOHARSKI	X		
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY	X		
REP. PAULA DARKO	X		
REP. RALPH EUDAILY	X		
REP. BUDD GOULD	X		
REP. TOM HANNAH	X		
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH	X		
REP. JOHN MERCER	X		
REP. LINDA NELSON	X		
REP. JIM RICE	X		
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN			X

CS-30

STANDING COMMITTEE REPORT

Mr. Speaker: We, the committee on Judiciary report that SENATE BILL 377 (third reading copy -- blue) be concurred in as amended.

Signed: _____
Kelly Addy, Vice-Chairman

[REP. STRIZICH WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Title, line 7.
Strike: "SECTION"
Insert: "SECTIONS"
Following: "44-12-102"
Insert: "AND 44-12-203"

2. Page 3, line 7.
Strike: "all"
Insert: "that specific portion of"

3. Page 3, line 8.
Strike: "the whole of"

4. Page 3, line 9.
Following: "that is"
Insert: "directly"

5. Page 3, line 12.
Following: "~~from~~"
Insert: "or that is derived from or maintained by the proceeds resulting from"

6. Page 3, lines 15 and 16.
Strike: "the owner" on line 15 through "without" on line 16
Insert: "unless it is proved that the act or omission was the owner's or was with"

7. Page 3, line 16.

Following: "his"
Insert: "actual"
Following: "knowledge or"
Insert: "express"

8. Page 4, following line 11.
Insert: "Section 2. Section 44-12-203, MCA, is amended to read:

"44-12-203. Presumption -- procedure following answer or expiration of time for answering. (1) There is a rebuttable presumption of forfeiture as to all property listed in 44-12-102, except property listed in 44-12-102(1)(i).

(2) If a verified answer to the petition is not filed within 20 days after the service of the petition and summons, the court upon motion must order the property forfeited to the state.

(3) If a verified answer is filed within 20 days, the forfeiture proceedings shall be set for hearing without a jury not less than 60 days after the answer is filed. Notice of the hearing shall be given in the manner provided for service of the petition and summons." "

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SENATE BILL 377

Testimony of Donald A. Ranstrom
Blaine County Attorney
President, Montana County Attorneys Association

Senate Bill 377 was requested by the Montana County Attorneys Association to provide additional assistance to law enforcement in their efforts against dangerous drug offenders, and to bring Montana law into line with federal statutes relating to seizures and forfeitures of assets involved in drug transactions and/or offenses.

A change in the Anti-Drug Abuse Act of 1988, §21 U.S.C. 881, will delete the beneficial aspects for local governments and state governments from what have been known in the past as "adoptive forfeitures". In the past, these forfeitures have been instituted in federal jurisdiction for assets such as real property, which Montana's statutes do not currently cover. The result of such a forfeiture was a sharing of the monetary recovery on an equitable basis between the federal jurisdiction and the state or local jurisdiction involved. In October of 1989, any forfeitures of this nature will result in all funds being retained solely by the federal government. The proposal that is before the legislature at this time will grant the State of Montana the same rights to forfeit real property as are currently allowed under federal statute, and will guarantee to law enforcement a capability to forfeit assets involved in drug transactions or offenses, which we believe will have a "chilling effect" on offenders' willingness to undertake such endeavors.

Hand in hand with this broader authority, comes the prospect of generation of additional funds through such forfeitures, for the purpose of enhancing law enforcement's capability to deal with the drug problem. In the current fiscal year, the State's

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matching percentage to obtain federal funds is 27% of approximately $800,000. That match requirement will increase to 50% in the following year, and thereafter, the State will be required to fund all of its operations independently, without any federal funding. Clearly, it is necessary to put in place a funding mechanism for law enforcement which can reduce the expenditures required from local general funds for the purpose of drug enforcement. Additionally, drug education efforts aimed at prevention as opposed to enforcement may also be funded from these forfeiture dollars. I believe that it must always be borne in mind that the people who are involved in this type of illegal enterprise are strictly in it for the money, and the law must be made such that upon being apprehended, virtually all of the trappings and benefits of the elicit drug trade may be subject to forfeiture, thereby increasing the risk that one takes when embarking on this path.

The requests we have made for changes in the existing statute do not affect the innocent owner protections contained in existing law. Additionally, any concerns about overzealous activities by law enforcement in this area need to be tempered by consideration that this entire procedure is subject to the scrutiny and control of the District Courts of the State of Montana, which I submit are a significant balancing factor.

The first change in this legislation relates to the 250 gram limitation on marijuana contained in a conveyance. The Senate modified this portion of the proposed bill, placing the limit at 60 grams, rather than removing the limitation altogether. The 60 gram limitation is in line with the amount of marijuana that must be in a defendant's possession in order to qualify as a felony offense. The Montana County Attorneys Association believes that

this change is appropriate, as the limitation amounts are identical, and therefore, a felony offense will have the result of risk of forfeiture of an automobile upon conviction.

The bill also amends the conveyance language to allow forfeiture of a conveyance if it is used in any manner to facilitate the commission of an offense under Title 45, Chapter 9. This is not a major substantive change from present language, but the change simplifies the language and makes it much more direct in its application.

The bill also amends the personal property provisions of subsection (h) to expand the language to include not only sale, but any violation of Title 45, Chapter 9, punishable by more than five years imprisonment. Besides sale of dangerous drugs, this amendment would also cover possession of dangerous drugs with intent to sell, a second conviction of fraudulently obtained dangerous drugs, criminal possession of precursors to dangerous drugs, criminal sale of imitation dangerous drugs to a minor, criminal advertisement of imitation dangerous drugs, and criminal manufacture of imitation dangerous drugs. More specifically, this amendment extends the application of the statute to those situations in which the offender is involved in the offense primarily for monetary gain. It would not cover possession of any dangerous drug, a first offense of fraudulently obtaining dangerous drugs, or criminal possession of imitation dangerous drugs with intent to sell. As noted above, the bill also creates a real property forfeiture provision consistent with its federal counterpart. Under this amendment, real property can be forfeited if it is being used to commit or facilitate the commission of an offense in violation of Title 45, Chapter 9, punishable by more than five years imprisonment. I have dealt

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with a number of serious drug offenses in the past several years as a county attorney in Blaine County, Montana. I continue to be amazed at the amount of this type of activity which pervades our society, even in rural agricultural settings such as the community where I reside. Money is the driving force behind this type of activity, and it is submitted by the Montana County Attorneys Association that whatever the legislature can do to lessen the amount of money that may be retained by drug offenders after their arrest and conviction is not only appropriate, but absolutely necessary if we are to deal effectively with this festering cancer.

EXHIBIT 2
DATE 3-9-89
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MONTANA ASSOCIATION OF REALTORS
PROPOSED AMENDMENT TO
SENATE BILL 377

1. Page 3, Line 15.
Following: "omission"
Insert: "UNLESS"

Following: "owner"
Strike: "proves"
Insert: "IS PROVED"

Following: "have"
Insert: "HAD PRIOR"

2. Page 3, Line 16
Strike: "been committed or omitted without his"

Following: "knowledge"
Insert: "OF"

Following: "or"
Strike: "consent"
Insert: "CONSENTED TO SUCH ACT OR OMISSION"

"An owner's interest in real property is not subject to forfeit by reason of any act or omission UNLESS the owner IS ~~proves~~ PROVED to have HAD PRIOR ~~been committed or omitted without his~~ knowledge OF OR ~~consents~~ CONSENTED TO SUCH ACT OR OMISSION."

VISITORS' REGISTER

House Judiciary COMMITTEE

BILL NO. 377 DATE MARCH 9, 1989

SPONSOR GAGE STRIZICH HALLIGAN

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Donald A. Ranstrom	Chinook Mt	X	
John Connor	Dept of Justice Mt County Atty Assn	X	
Mark Stolen	Havre, MT	X	
Tom Hopgood	Mont. Assoc. Realtors		✓
Robert Scott	Montana ACLU		✓
Bill Fleiner	Montana Sheriff's Police Officers	X	
Jim DuPont	Montana Sheriff's and Peace Officers	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE

Call to Order: By Chairman Gage, on April 19, 1989 at 1:00 p.m.

ROLL CALL

Members Present: Senators: Gage, VanValkenburg, Harding,
Representatives: Addy, Strizich, Gould

Also present: John Connor, representing the Attorney General

Staff Present: Ann Glenn, Secretary

Members Absent: None

Announcements/Discussion: None

SENATE BILL 377

Chairman Gage opened the Free Conference Committee meeting on S.B.377 and requested that Senator VanValkenburg express the concerns of the Senate concerning the amendments.

Senator Valkenburg distributed copies of a document prepared by John Connor of the Department of Justice which detailed what impact the amendments would have on the bill. He said the purpose of the bill was to try and bring Montana's forfeiture law more in line with the federal forfeiture law so that when the feds made an arrest or seizure related to drugs, and there were state law enforcement officers involved, that the state could then participate in the federal forfeiture which could provide: (1) a substantial source of funds for future drug enforcement operations; and (2) an additional deterent towards drug related activity. The House amendments do two things: (1) change the burden of proof around as regards to real property, i.e., in that the person who is being subject to forfeiture has to prove they are not subject to the requirements in the law; and (2) there was an effort in the House to limit the subject of real property forfeitures to specific portions of real property - example - if you had an isolated 5-acre plot on a larger farm operation, the only thing you could go after would be exactly where the marijuana was being grown - which make that piece of property unmarketable with limited value, and also doesn't really act as a deterent to that property owner if he can limit his operation to a very small portion of his property. He noted that being able to participate in federal forfeitures is of

Senator VanValkenburg, cont'd

significant value to the State of Montana. Obviously, there is much more money for enforcement purposes at the federal level than there is at the state level and they had been willing to share what they have been able to pick up whenever there is a cooperative effort, but in order for that sharing to take place federal law says that you can't be forfeiting that which is not forfeitable under state law.

Representative Addy asked why the state couldn't use the information that the fed's have during their bust to exercise our forfeiture rights as a state.

John Connor answered that as far as real property is concerned the state doesn't have the vehicle to do it. The state doesn't have the real property forfeiture provisions the federal law does. The state cannot forfeiture provisions the federal law does. The state cannot forfeit real property under Montana law that is just being used for the purpose of growing dope. If a ranch was owned outright and for the purpose of growing drugs, under federal law it could have been forfeited but it could not have been under state law unless it was possible to prove that the ranch value was derived from the sale of the drugs.

Reprersentative Addy stated he didn't think it was that difficult to show that the proceeds of the drug operation was used to pay the mortgage on his property.

Mr. Connor used an example of a person making $600 a month mortgage paymentgs on a house. He then starts growing marijuna in the basement of the house. That person is still going to continue to pay $600 a month payments after he is busted and there is no way to prove that the proceeds of that dope operation track over to the payment of the house. With the amendments in this bill the state would be able to go in and take the equity of the house. Mr. Connor said that under current law you have to show the house derives from the proceeds of the sale of the marijuna. Under the bill as amended you could seize the house.

It was agreed under SECTION 1,(i) to strike the words THAT SPECIFIC PORTION OF.

Representative Strizich said that the problem the House Committee had with the amendment was the issue of innocent shareholders, partners or spouses.

Representative Addy stated proponents of the amendments are saying prosecutors want to be able to go into any situation and back off when you have enough evidence that satisifies them that this was

Representative Addy, cont'd.

an innocent occurence as far as a title owner of a house or property is concerned. Addy would not be in favor of "going in" unless there was proof that they were involved and makes it hard for him to vote for a bill that says "we are going to take your property without proving they were involved in the operation."

Senator VanValkenburg maintained the bill would not be worth it to put the burden of proof on the state - to say that the owner knew. The owner should have to come in and prove that they were not aware, or had no knowledge that the property was being used for the purpose of developing drugs. It ought to be a presumption that if the drugs are on their property, they knew what the purpose was for those drugs being there and there is no way for the state to effectively prove that that was the case without presumption.

Representative Strizich "There are lots of properties that are rented. If I am renting a house and the person who has my house gets 'nailed' for cultivation in the basement of my rental property, I have to go to court to prove that I was not knowledgeable of his cultivation operation? I don't buy that."

John Connor If you want a practical reason why this language was in the bill to begin with and why it is used federally and why it was in the original law - it is not to make the prosecutor's job easier, it is because in all these forfeiture actions you have an innocent owner involved. People who are dealing in dope know what the law is. If you are dealing dope out of a car,"mom" always owns the care, the guy who is dealing never owns the car. That is why the law was originally constructed and why the federal law has some practical value.

Senator Gage It is time to get as tough as we can on this whole situation and we should look at the worst case scenario and make sure that the innocent victims out there are protected.

Senator Addy I vote no.

Representative Strizich It would be a mistake to let the bill go. It does more with the amendments than what is on the books right now. We should take that much and if it doesn't work we will have more experience, the language is there and we can come back in two years and go further if you can prove that is where it's going to work without taking away people's rights.

Senator Gage stated the Committee could not concur on all the amendments and moved that a new committee be appointed. The motion was seconded and passed.

ADJOURNMENT

Adjournment At: 2:00 p.m.

DELWYN GAGE, Chairman

DG/ag

Members Absent:
Members Excused:

ROLL CALL

SENATE BILL 377

FREE CONFERENCE COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 4-19-89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR DELWYN GAGE	X		
SENATOR FRED VANVALKENBURG	X		
SENATOR ETHEL HARDING	X		
REP. KELLY ADDY	X		
REP. BILL STRIZICH	X		
REP. BUDD GOULD	X		

Each day attach to minutes.

Free Conference Committee Report
on SB 377
Report No. 1, April 21, 1989

Mr President and Mr. Speaker:

We, your Free Conference Committee on SB 377 met and considered:

The House Committee on Judiciary amendments to SB 377 (third reading copy --blue) dated March 9, 1989.

We recommend that:

The House amendments be accepted, except that the inserted language in Amendment No. 2 be stricken;

and that SB 377 (reference copy -- salmon) be amended as follows:

1. Page 3, line 8.
Strike: "THAT SPECIFIC PORTION OF"

And that this Conference Committee Report be adopted.

FOR THE SENATE

Sen. Gage, Chairman

Sen. Harding

Sen. Halligan

FOR THE HOUSE

Rep. Addy, Chairman

Rep. Strizich

Rep. Gould

ADOPT

REJECT

SB 377

fccsb377.421